

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

MEZZ57TH LLC, et al.,

Case No.: 20-11316

Debtors and
Debtors-in-Possession.

(Jointly Administered)

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**ORDER (I) REJECTING LEASE BETWEEN THE DEBTOR AND MIP 57th
DEVELOPMENT ACQUISITION LLC, (II) COMPELLING THE DEBTOR TO
SURRENDER PREMISES, AND (III) TERMINATING THE STAY**

Upon the Order of this Court (I) Approving Relief Related to the Interim Budget and (II) Granting Related Relief, entered on August 11, 2020 in the captioned case (the “**Rent Deferral Order**”) [Dkt. No. 66]; and the annexed declaration of Jane Gladstein (the “**Gladstein Declaration**”), Project Executive for Sterling Project Development Group LLC, advisor to and authorized signatory for MIP 57th Development Acquisition LLC (the “**Landlord**”), in support of entry of an order (the “Order”) (I) rejecting the lease (the “**Lease**”) with the Landlord for the premises located at 432 Park Avenue a/k/a 36-46 East 57th Street, New York, New York (the “**Premises**”), (ii) compelling debtor Mezz57th LLC (the “**Debtor**”) to surrender the Premises, and (iii) terminating the stay with respect to the Lease and the Premises; and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that venue of this proceeding in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the Landlord provided adequate and appropriate notice of presentment of this Order, and that no other or further notice is required; and the Court having found that the Debtor failed to timely make the Partial Rent Payment (as such term is defined in the Rent Deferral Order) for July 2020 and August 2020 as required by the Rent Deferral Order;

and the Court having found that in accordance with the Rent Deferral Order, the Debtor has consented to the entry of this Order; and the Court having determined that the facts set forth in the Declaration establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED as follows:

1. The Lease is rejected in accordance with section 365 of the Bankruptcy Code.
2. The Debtor is compelled and directed to immediately (i) vacate the Premises and (ii) surrender the Premises to the Landlord in accordance with the applicable provisions of the Lease.
3. The Debtor is compelled and directed to immediately remove all of its personal property from the Premises. Any of the Debtor's personal property that remains on the Premises fourteen (14) days after the date of entry of this Order shall, in accordance with section 554 of the Bankruptcy Code, conclusively be deemed abandoned, free and clear of all liens, claims, encumbrances and interests of any kind, and may be retained, or disposed of, by Landlord, in Landlord's sole discretion, at its sole cost and expense, and the proceeds of the sale of any such items shall be the sole property of Landlord, *provided further*, Debtor waives any claim to the proceeds of any such sale.
4. The stay against the Debtor and the Premises under Bankruptcy Code § 362(a) shall be and hereby is terminated as to the Landlord in accordance with Bankruptcy Code § 105(a) and 362(d) to the extent necessary to allow the Landlord to terminate the Lease, repossess the Premises and effectuate the terms of this Order.
5. Landlord reserves all rights with respect to any and all obligations of the Debtor and its estate under the Lease, including but not limited to (i) the balance of the rent and additional

rent due under the Lease, and (ii) lease rejection damages allowable under section 502(b)(6) of the Bankruptcy Code.

6. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: New York, New York
August __, 2020

UNITED STATES BANKRUPTCY JUDGE